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**MEMO ENDORSED**

July 9, 2008

**BY HAND DELIVERY**

Honorable Denise L. Cote  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
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DATE FILED: 7-11-08

Re: Eric J. Lesane v. Dept. D. Moore, et. al., 08 Civ. 4828 (DLC)<sup>1</sup>

Your Honor:

As the Assistant Corporation Counsel assigned to the defense of the above-referenced civil rights action, I write to respectfully request that defendants' New York City Department of Correction ("DOC") and Assistant Deputy Warden Moore's time to answer or otherwise respond to the complaint in this action be enlarged sixty (60) days from July 9, 2008 to and including September 9, 2008.<sup>2</sup> *Pro se* plaintiff, Eric Lesane, is currently incarcerated and therefore, I am unable to reach him in order to obtain his consent. However, I have no reason to believe that he would object to this request for an initial enlargement of time.

<sup>1</sup> This case has been assigned to Assistant Corporation Counsel Katherine E. Smith, who is presently awaiting admission to the bar and is handling this matter under supervision. Ms. Smith may be reached directly at (212) 513-0462.

<sup>2</sup> This office has not yet discussed with defendant Moore the manner of service, and we make no representation herein as to the adequacy of process. Although this office does not currently represent defendant Moore, and assuming he was properly served, this office respectfully requests this extension on his behalf so that his defenses are not jeopardized while representational issues are being decided.

The complaint alleges, *inter alia*, that on September 14, 2007, New York City Department of Correction Assistant Deputy Warden Moore informed known gang affiliated inmates that plaintiff was a member of a rival gang and, as such, placed plaintiff in physical danger. An enlargement of time would allow this office time to obtain the underlying documentation, properly investigate the allegations of the complaint and fulfill its obligations under Rule 11 of the Federal Rules of Civil Procedure.

Moreover, an enlargement of time is necessary to resolve representation issues. In addition to the New York City Department of Correction, plaintiff names Deputy Warden Moore as a defendant.<sup>3</sup> Pursuant to Section 50-K of the New York General Municipal Law, the Corporation Counsel's office must determine based on a review of the facts of the case, whether we may represent defendant Moore. Moore must then decide whether he wishes to be represented by the Corporation Counsel, and if so, the Corporation Counsel's office must obtain his written authorization.

No previous request for an enlargement of time has been made. Accordingly, defendants respectfully request that their time to answer or otherwise respond to the complaint be enlarged sixty (60) days July 9, 2008 to and including September 9, 2008.

I thank Your Honor for your consideration herein.

Respectfully submitted,

Caryn Rosencrantz (CR 3477)  
Assistant Corporation Counsel  
Special Federal Litigation Division

cc: Eric J. Lesane (241-05-1706)  
Otis Bantum Correction Center  
16-00 Hazen Street  
East Elmhurst, NY 11370  
(By First Class Mail)

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<sup>3</sup> A check of the docket sheet indicates that affidavits of service of the summons and complaint have not been filed with respect to the individual identified in the caption of the complaint as "Warden Tom of OBCC," nor has he requested representation from this office. Without making any representations on behalf of the aforementioned individual, it is respectfully requested that, in the event he was served, his time to respond to the complaint similarly be enlarged so that his defenses are not jeopardized while representational issues are being decided.

**COPIES SENT TO:**

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